



September 19, 2008

BY ECF

Hon. Cathy Seibel, U.S.D.J.
United States District Court for the
Southern District of New York
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

Re: Progressive Northern Ins. Co. v. Daniel Beltempo, et al.
(U.S. Dist. Ct. S.D.N.Y., Index No. 7:07-cv-04033-CS)

Our File: SPT 9544

Dear Judge Seibel:

This firm is counsel to defendant Dana's Pro Trucking, Inc. ("Dana's"). In response to our August 28, 2008 letter, the Court allowed us until today to attempt to secure the voluntary cooperation of James Slaughter, owner of unrepresented defendant PamJam, Inc. As explained in our August 28 letter, although Mr. Slaughter believes his notice to plaintiff Progressive Northern Insurance Company ("Progressive") was timely, he has "washed his hands" of all litigation related to the underlying bodily injury lawsuit, including this declaratory judgment action. Nevertheless, we were seeking Mr. Slaughter's voluntary agreement to submit an affidavit in opposition to Progressive's motion for summary judgment.

Unfortunately, Mr. Slaughter continues to refuse to participate in any fashion in this litigation, even at the cost of his own interests. We therefore will not be submitting an affidavit from Mr. Slaughter at this point in time.

Even without Mr. Slaughter's cooperation, our motion papers are sufficient to warrant denial of Progressive's motion and judgment in Dana's favor. However, in the event the Court does not issue judgment in Dana's favor, and this case proceeds to trial, please be advised we shall subpoena Mr. Slaughter to testify at trial.

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attorneys

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Thank you again for allowing us additional time to attempt to gain the voluntary cooperation of Mr. Slaughter.

Respectfully submitted,

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cc (by ECF): Philip A. Bramson, Esq.